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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,876	12/12/2001	Karl Torchalski	1085/39014/23	2612

7590 09/16/2003  
Trexler, Bushnell, Giangiorgi,  
Blackstone & Marr, Ltd.  
105 W. Adams Street  
Chicago, IL 60603

EXAMINER

NGUYEN, Kimberly D

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/015,876

Applicant(s)

TORCHALSKI, KARL

Examiner

Kimberly D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4-6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Amendment***

1. Receipt is acknowledged of Preliminary Amendment filed 15 February 2002.

### ***Priority***

2. Acknowledgement is made of this application claiming the benefit of United States Provisional Application Serial No. 60/256,618 filed 19 December 2000.

### ***Drawings***

3. The drawings were received on 19 February 2002. These drawings are acceptable by the Examiner.

### ***Information Disclosure Statement***

4. The information disclosure statements (IDS) submitted on 28 February 2002, 3 April 2002, and 13 November 2002 have been considered by the Examiner. The IDS filed 13 November 2002 has been crossed out because this IDS is duplication of the IDS filed 3 April 2002.

### ***Specification***

5. The Abstract is objected because it should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words.

Appropriate correction is required.

6. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means"

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and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Benade et al.

(US 5,621,864; hereinafter "Benade").

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Re claims 1, 6 and 8-9, 13: Benade teaches a computer software (i.e., label generation control software; see col. 9, line 54 through col. 10, line 24) comprising computer readable code configured to create a printer label format based on a printed label that has been scanned (see figs. 4-8; col. 10, line 25 through col. 11, line 31), the computer readable code configured to convert a scanned label into a label format using optical character recognition (OCR) (see col. 10, lines 12-24), wherein the computer readable code is configured to recognize text on the scanned label as text (602, 702, 703, 802-804 in figs. 6-8), is configured to recognize graphics on the scanned label as graphics (805 in fig. 8), and is configured to characterize as graphics any items on the scanned label which are not specifically recognized by the computer readable code (see figs. 1-8 and 13-16; col. 6, line 34 through col. 12, line 33; col. 16, line 6 through col. 19, line 42).

Re claims 2 and 10: Benade teaches the computer software, wherein the computer readable code is configured to recognize barcodes on the scanned label as barcodes (fig. 2; steps 210-211; col. 12, lines 35-52).

Re claims 3 and 11: Benade teaches the computer software, wherein the computer readable code is configured to determine at least one parameter (i.e., start and/or stop characters such as a dollar sign or an asterisk) about a barcode on the scanned label, the at least one parameter comprising at least one of aspect ratio, size and human readability (col. 6, line 49 through col. 7, line 6).

Re claims 4 and 12: Benade teaches the computer software, wherein the computer readable code is configured to prompt a user, using a visual display (114 in fig. 1), to confirm that the objects on the scanned label have been correctly characterized by the computer readable

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code (i.e., the definition provided by the user through the user interface 114 indicates the configuration of labels to be printed, which serves as to confirm that the objects on the scanned label have been correctly characterized by the computer readable code; see col. 6, line 35 through col. 7, line 18; col. 16, line 6 through col. 19, line 42).

Re claim 5: Benade teaches the computer software, wherein the computer readable code is configured to allow the user to change/edit any of the characterizations made by the computer readable code (figs. 13-16; col. 16, line 6 through col. 19, line 42).

Re claims 7 and 14: Benade teaches the computer software, wherein the computer readable code is configured to allow a user to input embedded printer-specific non-printing control codes into the label format (col. 5, line 54 through col. 6, line 33).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Price et al. (US 4,939,674) teaches label generation apparatus. Irons et al. (US 6,427,032) teaches apparatus and method for digital filing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 703-305-1798. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-8792.

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KDN  
5 September 2003

A handwritten signature in black ink, appearing to read 'Karl D. Frech', written in a cursive style.

KARL D. FRECH  
PRIMARY EXAMINER